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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,350	04/22/2005	Eric Domejean	28954-1426	1725
27890 7590 04/10/2007 STEPTOE & JOHNSON LLP 1330 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036			EXAMINER THOMAS, LUCY M	
			ART UNIT	PAPER NUMBER
			2836	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/10/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/532,350	<b>Applicant(s)</b> DOMEJEAN ET AL.	
	<b>Examiner</b> Lucy Thomas	<b>Art Unit</b> 2836	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-7, 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menier et al. (US 5,493,264) in view of Howell (US 4,168,514). Regarding Claim 1, Menier discloses a device for protection 10, comprising: a first connecting electrode 38 in electrical connection with a first connecting pad 32, a second connecting electrode (see peak portion of 30) in electrical connection with a second connecting pad 28, a third mobile arc switching electrode 22 electrically connected to the second connecting pad, an arc chute 45 opening out onto the first and second connecting electrodes, means for driving the mobile electrode 18, 34, 44, 43 (Column 2, lines 52-57) with respect to the first connecting electrode from an operating position to a switching position moving away from the first connecting electrode and moving towards the second connecting electrode, so that an electric arc drawn between the first connecting electrode and the mobile electrode switches between the first connecting electrode and the second connecting electrode when the mobile electrode moves from the operating position to the switching position (Abstract, Column 2, lines 41-57).

Menier does not disclose an electrical ignition means connected so that when the mobile electrode is in the operating position, the electrical ignition means is connected

Art Unit: 2836

to the arc switching electrode on the one hand and to the first or second connecting pads on the other hand, and that when the mobile electrode is in the switching position and an electric arc is drawn between the first connecting electrode and the second connecting electrode, the electrical ignition means is disconnected from the circuit, the electrical ignition means having an ohmic resistance varying inversely with the voltage applied to the electrical ignition means, the ohmic resistance being high when the voltage is lower than an ignition voltage and decreasing when the voltage increases above the ignition voltage.

Howell discloses a device for protection against voltage surges (Figures 1-3, 5), comprising a first connecting electrode 24 in electrical connection with a first connecting pad 28, a second connecting electrode 58 in electrical connection with a second connecting pad 76, a third mobile electrode 20 electrically connected to the second connecting pad, means for driving the mobile electrode, and an electrical ignition means having an ohmic resistance varying inversely with the voltage applied to the dipole, the ohmic resistance being high when the voltage is lower than an ignition voltage and decreasing when the voltage increases above the ignition voltage (recitation regarding property of a circuit comprising a varistor (electrical ignition means) (Column 1, lines 7-15, Column 2, lines 11-48, Column 3, lines 38-67, Column 4, lines 1-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Menier and provide a dipole as taught by Howell, because a varistor in combination with a conventional circuit breaker provides both overcurrent and

Art Unit: 2836

overvoltage circuit protection, fail-safe protection, reliable operation and compact design (Howell Abstract, Column 2, lines 1-9, 44-47).

Regarding Claim 2, Howell discloses the device, wherein the varistor is connected in series between the switching electrode and the second connecting pad (see Figures 2-5 and 7). Regarding Claim 3, Menier discloses the device, wherein the mobile electrode in the operating position is in contact with the first connecting electrode (see Figure 3).

Regarding Claim 5, Menier discloses the device, additionally comprising electromagnetic induction projection means 36 has electromagnetic induction projection means) for inducing electromagnetic forces on an electric arc formed between the first connecting electrode and the mobile electrode tending either to project the arc to the arc chute or to make the arc switch on the second connecting electrode (Column 2, lines 46-57, Column 3, lines 63-67).

Regarding Claim 6, Menier discloses the device, wherein the driving means comprises electromagnetic induction repulsion means (driving means 18, 34, 36, 44, 43 has electromagnetic induction repulsion means) for inducing electromagnetic forces on the mobile electrode through which a current is flowing tending to drive the mobile electrode to the switching position (Column 3, lines 35-50).

Regarding Claim 7, Menier discloses the device, wherein the electromagnetic induction repulsion means comprises a magnetic driving circuit for channeling a magnetic flux generated by an electric current flowing between the first connecting pad and the first connecting electrode to the mobile electrode in the operating position, so

Art Unit: 2836

that when an electric current flows from the first connecting pad to the mobile electrode, electromagnetic forces are induced in the mobile electrode, tending to drive the mobile electrode to the switching position (Column 3, lines 50-62).

Regarding Claim 9, Menier discloses the device, wherein the driving means comprises a mechanism equipped with a mobile means for operation between an operating position and a disconnection position and a kinematic link (see 64, 66 in Figures 3-5) between the means for operation and the mobile electrode for driving the mobile electrode to a disconnected position when the means for operation move from the operating position to the disconnection position.

Regarding Claim 10, Menier discloses the device, wherein the driving means comprises flexible return means 24 for returning the mobile electrode to the operating position (Column 2, lines 41-44). Regarding Claim 11, Menier discloses the device, wherein the driving means comprises an energy storage spring 34, discharging when driving the mobile electrode from the operating position to the switching position.

Regarding Claim 12, Howell discloses a variable resistor 52 (See Abstract, Figure 5).

Regarding Claim 13, Howell disclose the device, wherein one of the first and second connecting pads is for connection to electric line, and the other of the connecting pads is for connection to earth (Howell Figure 5).

3. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menier et al. (US 5,493,264) in view of Howell (US 4,168,514). Regarding Claim 1, Menier discloses a protection device 10 against voltage surges, comprising: a first

Art Unit: 2836

connecting electrode 20 in electrical connection with a first connecting pad 46, a second connecting electrode 38 in electrical connection with a second connecting pad 32, a third mobile arc switching electrode 22 electrically connected to the second connecting pad, an arc chute 45 opening out onto the first and second connecting electrodes, means for driving the mobile electrode 18, 34, 36, 44, 43 (Column 2, lines 52-57) with respect to the first connecting electrode from an operating position to a switching position moving away from the first connecting electrode and moving towards the second connecting electrode, so that an electric arc drawn between the first connecting electrode and the mobile electrode switches between the first connecting electrode and the second connecting electrode when the mobile electrode moves from the operating position to the switching position (Abstract, Column 2, lines 41-57).

Menier does not disclose an electrical ignition means connected so that when the mobile electrode is in the operating position, the electric dipole is connected to the arc switching electrode on the one hand and to the first or second connecting pads on the other hand, and that when the mobile electrode is in the switching position and an electric arc is drawn between the first connecting electrode and the second connecting electrode, the electrical ignition means is disconnected from the circuit, the electrical ignition means having an ohmic resistance varying inversely with the voltage applied to the electrical ignition means, the ohmic resistance being high when the voltage is lower than an ignition voltage and decreasing when the voltage increases above the ignition voltage.

Howell discloses a device for protection against voltage surges (Figures 1-3, 5), comprising a first connecting electrode 24 in electrical connection with a first connecting pad 28, a second connecting electrode 62 in electrical connection with a second connecting pad 76, a third mobile electrode 20 electrically connected to the second connecting pad, means for driving the mobile electrode, and an electrical ignition means having an ohmic resistance varying inversely with the voltage applied to the dipole, the ohmic resistance being high when the voltage is lower than an ignition voltage and decreasing when the voltage increases above the ignition voltage (recitation regarding property of a circuit comprising a varistor) (Column 1, lines 7-15, Column 2, lines 11-48, Column 3, lines 38-67, Column 4, lines 1-67). It would have been obvious to those skilled in the art at the time the invention was made to modify the device of Menier and provide a varistor as taught by Howell, because a varistor in combination with a conventional circuit breaker provides both overcurrent and overvoltage circuit protection, fail-safe protection, reliable operation and compact design (Howell Abstract, Column 2, lines 1-9, 44-47).

Regarding Claim 4, Menier discloses the device, wherein the electrical ignition means is connected between the first connecting electrode and a fixed fourth electrode 28 situated at a distance from the first connecting electrode and in such a way that the mobile electrode in the operating position is electrically connected to the fixed fourth electrode (see Figure 2). The electrical ignition means connected between the first and the fourth electrode is an additional one.



***Response to Arguments***

4. Applicant's arguments filed 1/08/2007 have been fully considered.

The Applicant argues that Menier does not describe a device, that protects against voltage surges, connected in parallel between an electric line and a ground line, comprising an electrical ignition means (varistor), however, it is not supported by the claim language. Howell reference is relied upon for the teaching of an electrical ignition means and motivation (a varistor in combination with a conventional circuit breaker provides both overcurrent and overvoltage circuit protection, fail-safe protection, reliable operation and compact design (Howell Abstract, Column 2, lines 1-9, 44-47).

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lucy Thomas whose telephone number is 571-272-


Art Unit: 2836

6002. The examiner can normally be reached on Monday - Friday 8:00 AM - 4:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on 571-272-2800 x36. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LT  
March 31, 2007



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